



PATENT OPERATIONS

#11/C

Applicant: Kevin McDermott  
Serial No.: 08/647,461  
Filing Date: 05/03/96  
Title: ANGLED CONVERGING REFLECTOR AXIAL LIGHT  
CONCENTRATING LIGHTING DEVICE  
Examiner: Mark Haynes (703-308-5460  
Art Unit: 2875

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AMENDMENT  
DATED 10/28/98

HONORABLE COMMISSION OF PATENTS AND TRADEMARKS  
WASHINGTON, D. C. 20231

11/4/98

*Smith*

Sir:

In response to the official action of 04/28/98, the time to respond to which is being extended by three (3) months to 10/28/98, please amend the above identified application as follows:

1. Change the title of the application to:

"ANGLED ELLIPTICAL AXIAL LIGHTING DEVICE"

2. In response to the examiner's Provisional Double patenting Rejection, the applicant believes that this type of rejection does not apply because each of the three copending patents have claims which are mutually exclusive.

Specifically, as a result of an amendment dated 2/04/98 each and every claim of copending application 08/647,461 includes a reflecting surface having an elliptical line and an elliptical line axis intersecting the reference axis.

Copending application 08/642,661 as a result of an amendment dated 2/04/98 comprises each and every claim having a reflecting surface having an elliptical line axis which is parallel to the reference axis. Therefore, a lighting device made according to application 08/642,661 with a parallel elliptical line axis does not infringe upon 08/647,461 which requires its elliptical line axis to intersect the reference axis. The claims of these patents make them mutually exclusive.

Copending application 08/631,821 as a result of an amendment dated 2/04/98 comprises each and every claim having a parabolic line with a parabolic line axis intersecting the reference axis. Thus a lighting device made according to 08/631,821 with a parabolic contour would not infringe upon any of the copending applications which require an elliptical contour.

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Since each of the copending applications have claims which make them mutually exclusive, I do not believe that the provisional double patenting rejection is appropriate in this case.

In the analysis that immediately follows this paragraph, applicant believes he has provided adequate justification for separate patents. However, all of the copending applications were entered at substantially the same time. Applicant expected that if allowed, the issue dates of the copending patents would be at substantially the same time. Therefore, the problem of double patenting is possibly a moot point. If after consideration of the information provided herein the examiner still feels that it is required applicant will issue a terminal disclaimer in compliance with 37 CFR 1.321(b) and (c) for each of the referenced copending patent applications. This will avoid the issue of double patenting. The terminal disclaimer will disclaim the terminal part of each patent beyond the expiration date of the first patent issued.

It is also noteworthy to realize that it is not an obvious matter to chose which of the shapes to employ for a particular lighting application. The most desirable shape for a particular use is not obvious. The optimum design can be ascertained using the information provided in the disclosure for the aforementioned applications.

Respectfully submitted,

By:   
KEVIN MCDERMOTT

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231

Date: 10/28/98

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By: 